

LAW ON FOREIGN TRADE IN WEAPONS, MILITARY EQUIPMENT AND DUAL-USE GOODS

(S&M Official Gazette No.7/05.)

I. BASIC PROVISIONS

Article 1.

This Law stipulates methods and conditions under which it is possible to do foreign trade, transport and transit of weapons, military equipment and dual-use goods (hereinafter referred to as “controlled goods”), defines their definitions, establishes the authority in charge of issuing licenses for export, import, transport, transit, brokering and services in foreign trade activities, stipulates conditions under which the licenses can be issued, authorizations of authorities in charge of implementation of this Law, supervision and control and penalties in case of violation of this the Law.

The Council of Ministers is authorized to issue regulations for implementation of this Law.

Article 2.

The goal of this Law is to establish state control in order to realize and protect the national security, foreign political and economical interests of the State Union of Serbia and Montenegro (hereinafter referred to as “Serbia and Montenegro”), international credibility and integrity and to ensure respect of international obligations undertaken by Serbia and Montenegro.

Article 3.

Within the scope of this Law the following are considered to be controlled goods:

1. weapons, military equipment and related technologies harmonized with “Common List of Military Equipment covered by the EU Code of Conduct on Arms Exports”.
2. dual-use goods, including software and technologies that may be used for both civilian and military purposes, harmonized with “List of Dual-Use Goods and Technologies” of European Union.

The Council of Ministers establishes National Control Lists of weapons and military equipment and a List of dual-use goods, as well as other Lists for fulfilling obligations from international agreements.

Article 4.

Goods not described in Article 3 of this Law are considered to be controlled goods when the person concerned has been informed by a competent authority or has a reason to think that goods concerned are or may be intended, entirely or partially, to be used for development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other

nuclear explosive devices or for development, production, maintenance or storage of missiles capable of delivering such weapons.

Article 5.

Foreign trade, transport, transit, ownership, use of nuclear, chemical or biological weapons as well as of means for their launching, in terrorist purposes in particular, to any non-state actor is forbidden.

Article 6.

Foreign trade in controlled goods includes particularly:

- 1) export and import;
- 2) scientific and technical co-operation, production co-operation, acquisition and transfer of property rights for technologies in the area of manufacturing controlled goods;
- 3) providing intellectual and material services that might be used for designing, development, production, use and maintenance of controlled goods;
- 4) representation of foreign companies, brokering, re-export, maintenance and other services in the foreign trade traffic of controlled goods,
- 5) non-commercial export and import.

Article 7.

Within the scope of this Law, transport of controlled goods includes all types of transportation (land, water, and air transport) of controlled goods into and out of the territory of Serbia and Montenegro.

Article 8.

Within the scope of this Law, transit (with or without transshipment) of controlled goods includes all types of transit (land, water, and air transit) across the territory of Serbia and Montenegro, regardless of the final destination.

Article 9.

Foreign trade in controlled goods defined by Articles 3 and 4 of this Law may be conducted only with a license issued by the Ministry for Foreign Economic Relations of Serbia and Montenegro (hereinafter referred to as “the Competent Ministry”), unless otherwise provided by this Law.

Article 10.

Transport and transit of controlled goods defined by Articles 3 and 4 of this Law may be conducted only against an approval issued by the competent authorities.

Article 11.

Foreign trade in controlled goods may be conducted by a natural and legal person (hereinafter referred to as a “person”), registered for this activity with the Competent Ministry.

Prior to starting the foreign trade activity, a person is obliged to identify whether the related goods are pertaining to the category of controlled goods as per Articles 3 and 4 of this Law.

Article 12.

In accordance with this Law, the Competent Ministry manages the index of registered persons allowed to practice foreign trade of controlled goods.

The decision of the entry in the index defined in paragraph 1 of this Article is valid for 5 years.

The Minister for International Economic Relations regulates the manner in which the index will be managed.

Article 13.

Registration for practice of foreign trade in controlled goods is done based on a person’s written application, which must contain:

- 1) a notarized copy of the decision of the competent authority of the registered activity,
- 2) **parent number** and tax identification number,
- 3) certificate of the competent authority that the applicant has not been under criminal charges and that he is not under investigation,
- 4) name of the depositors bank and documents certified by the depositors bank (copies of the latest annual balance sheet and current account balance, certificate that the transfer account has not been blocked in the last 6 months, copy of the deposited signatures),
- 5) a statement of the applicant that he is not facing bankruptcy,
- 6) certificate that the applicant does not have any unpaid debts in terms of tax and custom duties, which are collected by means of a court decision,
- 7) number and structure of employees,
- 8) obligatory statement by which the applicant declares to be under obligation to provide full cooperation and assistance to the competent authority in the process of control and supervision of activities related to foreign trade of controlled goods, as well as control of storage facilities and transport vehicles,
- 9) other documents needed for making the decision upon the request of the competent ministry.

II. LICENSE ISSUING

Article 14.

A license for foreign trade of controlled goods is a written document of the Competent Ministry, which allows the person to perform the single foreign trade of known quantity and type of controlled goods under the conditions agreed upon a contract.

Article 15.

License application for practice of foreign trade in controlled goods must contain:

- 1) name, address and parent number of importer or exporter,
- 2) name, description, tariff number, category and identification number from the List of controlled goods and quantity of controlled goods,
- 3) purpose of use of controlled goods,
- 4) total value of controlled goods,
- 5) information on other participants in trade: manufacturer, salesman, owner, buyer, shipping agent, transporter, traffic brokers and agents,
- 6) name and address of end user,
- 7) manner of payment, charging
- 8) suggestion for license validity,
- 9) other required data and documents needed for making decision.

Article 16.

Along with the request for issuing of license for export of controlled goods, apart from data stipulated in Article 15, the applicant is required, on the request of the competent ministry, to submit an original END USER CERTIFICATE, not older than 6 (six) months, obtained from the official authority of the country of end user, a notarized translation of EUC into Serbian language and other required documents needed for decision-making process.

An original End User Certificate should contain the following data:

- 1) name and address of the exporter,
- 2) name and address of end user of controlled goods,
- 3) country of final destination,
- 4) description, quantity and purpose of controlled goods,
- 5) statement that controlled goods are not going to be used for different purposes, re-exported or otherwise transferred or traded without written approval of the Competent Ministry from the country of origin,
- 6) signature, name and position of authorized officer,
- 7) number and issuing date.

Article 17.

The Competent Ministry issues the End User Certificate for controlled goods import.

Article 18.

The Minister for International Economic Relations defines the unique form of license application, license form and other forms of documents that follow foreign trade of controlled goods.

Article 19.

A license for foreign trade in controlled goods contains the following data:

- 1) name, parent number and address of exporter or importer,
- 2) name, description, tariff number, category and identification number from the List and quantity of controlled goods,
- 3) total value of controlled goods that are subject of export or import,
- 4) name and address of manufacturer/owner and end user of controlled goods,
- 5) manner of payment, charging
- 6) validity of license,
- 7) number, date, stamp and signature of authorized person.

The license validity is limited up to one-year period.

Article 20.

Prior to deciding upon an application for issuing license for practicing of foreign trade of controlled goods in the sense of regulations of this Law, the Competent Ministry will obtain consent from ministries of Serbia and Montenegro in charge of foreign affairs and defense, as well as opinion from ministry in charge of internal affairs of member state on which territory the head office of person mentioned in Article 11. is situated.

The ministries in charge of foreign affairs and defense of Serbia and Montenegro have the right of veto on license issuing in a decision-making process regarding trade in weapons and military equipment.

In the case of veto from both ministries from paragraph 2 of this Article, the Competent Ministry cannot issue a license, but in the case of veto from one ministry the final decision provides the Council of Ministers.

Article 21.

In a decision-making process of giving consent for foreign trade in controlled goods, the Ministry of Foreign Affairs of Serbia and Montenegro considers the following:

- 1) sanctions of the United Nations Security Council and recommendations of the Organization for Security and Co-operation in Europe (OSCE);
- 2) accepted international obligations and foreign political interests of Serbia and Montenegro;
- 3) the European Union Code of Conduct for Arms and Military Equipment Exports;
- 4) level of respecting and/or violation of human rights and freedoms in the country of final destination.

Article 22.

In a decision-making process of giving consent to foreign trade in controlled goods, the Ministry of Defense of Serbia and Montenegro considers the following:

- 1) influence on the security of Serbia and Montenegro;
- 2) whether the weapons and military equipment that have been planned for exports are on the export list of weapons and military equipment;
- 3) whether there is the decision of the Ministries for Defense of Serbia and Montenegro regarding weapons and military equipment from the stock of the Army of Serbia and Montenegro;
- 4) whether Serbia and Montenegro, on the grounds of transfer of technology made by Ministry for Defense and the Army, participates in the ownership of the technology in question.

Article 23.

In the process of making decision on providing opinions on foreign trade of controlled goods the Ministries in charge of internal affairs of member states should consider:

- 1) The influence on internal security
- 2) The influence on traffic safety
- 3) The influence on life protection, personal and property safety of citizens

Article 24.

The Competent Ministry will decide on a license issuing application within 30 days of the receipt thereof.

Article 25.

The Competent Ministry will refuse to issue a license if:

- 1) exporter or importer is not registered for practicing of foreign trade of arms, military equipment and dual-use goods (Article 11)
- 2) exporter or importer provides false data in license application form (Article 13 and 15)
- 3) exporter or importer did not provide the END USER CERTIFICATE, or it is older than six months, or it is not a notarized translation (Article 16)
- 4) ministries of Serbia and Montenegro in charge of foreign affairs and defense do not give their consent on the request submitted (Article 21 and 22)
- 5) it contradicts the interests of foreign policy, national security and the economy of Serbia and Montenegro.

Article 26.

The Competent Ministry will revoke an issued license if:

1. the license has been issued on the basis of false data or the issuing conditions have been changed significantly,
2. the person or the foreign trade activity has violated the interests of foreign policy, national security or the economy of Serbia and Montenegro,
3. the person do not comply anymore with the conditions for issuing license or the conditions stipulated in the license have not been obeyed.

For cases listed in items 1 to 3 of this Article, Serbia and Montenegro is not considered responsible toward license holder for possible damages resulting in the revocation of the license.

Article 27.

Person is obligated to inform in writing the Competent Ministry of realization of foreign trade of controlled goods or to return issued license if not used, not later than 15 days after the expiration of the license validity.

On the Competent Ministry's request, exporter is obligated to provide confirmation of the receipt of controlled goods, issued by the competent authority from the country of final destination.

Article 28.

The Competent Ministry creates a database of approved, denied and revoked licenses in accordance with this Law.

The competent Ministry informs the authorities of member states, which are in charge of environment protection activities on issued licenses for practicing foreign trade of chemicals from lists of controlled goods.

The Council of Ministers adopts an annual report on foreign trade in controlled goods and informs of that the Parliament of Serbia and Montenegro.

III. TRANSPORT AND TRANSIT OF WEAPONS AND MILITARY EQUIPMENT

Article 29.

Ministries in charge of internal affairs of member states approve continental and waterway transport of weapons and military equipment, based on previously issued license from the Competent Ministry for specific foreign trade business and with consent of the ministries in charge of foreign affairs and defense of Serbia and Montenegro

The authority in charge of Air Traffic approves the air transport of weapons and military equipment, based on the previously issued license from the Competent Ministry for specific foreign trade business and with consent of the ministries in charge of foreign affairs and defense of Serbia and Montenegro.

Article 30.

Continental and waterway transit of weapons and military equipment will be performed in the prescribed manner and upon the approval given by the ministries in charge of internal affairs of member states, and with consent of the ministries in charge of foreign affairs and defense of Serbia and Montenegro.

Air transit of weapons and military equipment is performed in the prescribed manner and with the approval by the authority in charge of Air Traffic, and with consent of the ministries in charge of foreign affairs and defense of Serbia and Montenegro.

Article 31.

The necessary security measures are to be taken during the transport and transit of weapons and military equipment.

Continental and waterway transport and transit of weapons and military equipment on the territory of Serbia and Montenegro is to be conducted with an armed escort.

Article 32.

Terms and methods of transport and transit of weapons and military equipment, security measures and supervision of this transport and transit across the territory of Serbia and Montenegro are prescribed by special regulations of member states.

IV. SUPERVISION AND CONTROL

Article 33.

The Competent Ministry, in cooperation with other authorities (the ministry in charge of defense, the ministries of member states in charge of internal affairs, customs offices of member states, security and intelligence agencies and other), conducts supervision and control in accordance to this Law.

Customs authorities, security-intelligence and inspection services of member states are obliged to perform permanent control within the authorization given by the law of which they inform the Competent Ministry.

Article 34.

Person practicing foreign trade of controlled goods (importer, exporter, broker, owner or other user) is obliged to keep documentation on traffic of controlled goods for a period of at least 10 (ten) years once the activity being completed; to allow control and supervision and to fully assist in the process of control and supervision as well as to respect conditions stipulated in the license for foreign trade of controlled goods.

Article 35.

Person engaged in foreign trade, transport or transit of controlled goods must enable to the authorities from Article 33 of this Law an insight in all phases of trade, transport, transit and storage in order to contribute to the process of supervision and control.

Article 36.

Person engaged in foreign trade, transport or transit of controlled goods, or procurement and storage of controlled goods, is obligated to undertake all necessary protection and safety measures.

Person is obligated to inform the Competent Ministry on missing or damaged controlled goods within 24 hours after the incident.

Article 37.

If there are grounds for suspicions that person intends to procure controlled goods for purposes not specified in the license for practicing foreign trade of controlled goods, the Competent Ministry will request from other authorities from Article 33 of this Law to perform pre-control.

Other authorities make protocol on results of performed pre-control from paragraph 1 of this Article of which they inform in writing the Competent Ministry within 15 days from the day of its execution.

Controlled person has the right to be informed on protocol's content, to get a copy of the protocol and to submit their opinion regarding results of control to the Competent Ministry within a seven days deadline.

Article 38.

During customs control of controlled goods that are subject of foreign trade, customs authorities can, within their competencies, limit, stop, seize or suspend transport of controlled goods of which they will inform the Competent Ministry immediately.

Article 39.

Ministries in charge of finance of member states will specify obligations of their respective customs services regarding the implementation of this Law.

Ministries of Internal Affairs of member states will define and prescribe obligations of the authorities in charge of internal affairs on the territory of Serbia and Montenegro regarding the implementation of this Law.

Article 40.

Customs authorities quarterly inform the Competent Ministry on realization of issued licenses in accordance with their authorizations.

V. PENALTY PROVISIONS

Article 41.

A fine amounting single to **quintuple** value of the goods which are subject of violations, will be imposed on a person who:

1. performs foreign trade and brokering of controlled goods without being registered into a proper Record (Article 11).
2. performs foreign trade and brokering of controlled goods without a License issued from the Competent Ministry (Article 9).
3. provides false data or omits material facts within the procedure of issuing a license (Article 15 and 16).
4. violates obligations from Articles 27, 34, 35 and 36 of this Law.

A fine amounting single to triple value of the goods, which are subject of violations, will be imposed on a responsible person within a legal person when the violator is a legal person.

For violations defined in Article 9 and 11 apart from the fine a safety measure of eliminating from the Record of persons allowed to practice foreign trade of controlled goods will be sentenced and the goods, which are subject of violation, will be forfeited. Ban from paragraph 3 of this Article is valid for 3 (three) years and enters into force one the verdict became legislative.

Article 42.

The courts of member states are responsible for prosecution and penalty provision sentences, according to laws of member states.

VI. INTERMEDIARY AND FINAL PROVISIONS

Article 43.

The legal rights which follow from single acts previously issued by competent authorities, and which are not entirely used or are used partially until the date of coming into force of the Law's entering could be used according to the terms defined by these acts.

Article 44.

Regulations for implementation of this Law will be defined within three months from its coming into force.

Article 45.

On the date of this Law's entering into force, the provisions of the Law on Production and Trade of Weapons and Military Equipment ("Official Gazette of the FRY", No. 41/96), related to the Foreign Trade of Weapons and Military Equipment cease to be valid.

Article 46.

This Law enters into force on the eighth day from the date of its publishing in the "Official Gazette of Serbia and Montenegro" and will be implemented from 31st March 2005.

**LIST OF GOODS SUBJECT TO LICENSING REGIME BASED ON
THE LAW ON FOREIGN TRADE IN MILITARY EQUIPMENT, AMMUNITION
AND GOODS OF DUAL USE**

Tariff number	Description	Mode	
		Export	Import
2904 20 00 00	- Derivatives containing only nitro or only nitroso groups		
3601 00 00 00	Propellant powders		
3602 00 00 00	Prepared explosives, other than propellant powders		
3603 00 10 00	- Safety uses; detonating fuses		
3603 00 90 00	- Other		
3604 10 00 00	- Fireworks		
3604 90 00 00	- Other		
4907 00 30 00	- Banknotes		
4907 00 90 00	- Other		
9303 10 00 00	- Muzzle-loading firearms		
9303 20 10 00	- - Single-barrelled, smooth bore		
9303 20 95 00	- - Other		
9303 30 00 00	- Other sporting, hunting or target-shooting rifles		
9303 90 00 00	- Other		
9304 00 00 00	Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of headings 9307		
9305 10 00 00	- Of revolvers or pistols		
9305 21 00 00	- - Shotgun barrels		
9305 29 00 00	- - Other		
9305 99 00 00	- - Other		
9306 10 00 00	- Cartridges for riveting or similar tools or for captive-bolt humane killers and parts thereof		
9306 21 00 00	- - Cartridges		
9306 29 40 00	- - - Cases		
9306 29 70 00	- - - Other		
9306 30 93 00	- - - - Rimfire cartridges		
9306 90 90 00	- - Other		
9307 00 00 00	Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths thereof		